

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

March 18, 2008

3:30 P.M. SCHEDULED SESSION

3:35 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Scott McCormick

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Elder Nehemiah Martin from Ford Chapel AME Zion Church. Councilman Ford presented Elder Martin with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

(Councilwoman Halbert is requesting a copy of the contract, as well as the fees, pertaining to item #37 – Funding to the Summer Youth Program, from March 4, 2008 Meeting).

Approval of the Minutes of the regular meeting of March 4, 2008 with the following motion:

MOTION: Flinn
SECOND: Morrison
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman McCormick
Brown did not cast a vote

APPROVED**38. RESOLUTION DESIGNATING MARCH AS AMERICAN RED CROSS MONTH.**

MOTION: Fullilove

SECOND: Ford

APPROVED, unanimous voice vote**39. RESOLUTION HONORING THE SNOWDEN MIDDLE SCHOOL GIRLS BASKETBALL TEAM FOR WINNING THE 2008 WEST TENNESSEE STATE CHAMPIONSHIP AND THE BOYS BASKETBALL TEAM FOR BEING THE RUNNER-UP.**

MOTION: Ware

SECOND: Fullilove

APPROVED, unanimous voice vote**CONSENT AGENDA – Items 1 - 8 may be acted upon by one motion: SEE PAGE 2457 FOR ROLL CALL****1. ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ADD AN ANNUAL ADJUSTMENT TO THE LIVING WAGE, UP FOR F I R S T READING.**

Ordinance No. 5257

APPROVED, on First reading**2. ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 4159, GRANTING AOL TIME WARNER, INC., AN EXTENSION OF ITS FRANCHISE ORDINANCE THROUGH DECEMBER 16, 2008, UP FOR S E C O N D READING.**

Ordinance No. 5255

APPROVED, on Second reading**3. ORDINANCE AMENDING SUBSTITUTE ORDINANCE NO. 5046 TO EXPAND THE DEFINITION OF EMERGENCY IN ORDER TO PERMIT MLGW TO PROMPTLY RESPOND TO SAFETY AND REGULATORY COMPLIANCE ISSUES AND TO ENTER INTO TIME SENSITIVE NATURAL GAS PURCHASES AND DERIVATIVE INSTRUMENTS, UP FOR S E C O N D READING.**

Ordinance No. 5256

APPROVED, on Second reading

4. **ORDINANCE AMENDING THE ZONING TEXT AMENDMENT ON
NONCONFORMING USES, UP FOR S E C O N D READING.**

Ordinance No. 5242
Case No. ZTA 07-002cc

APPROVED, on Second reading

5. **RESOLUTION APPROVING FINAL PLAT OF LEVEE ROAD SUBDIVISION.**

Case No. S 07-031

Resolution approves the final plat located south of the Wolf River, west of I-240.
Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

APPROVED

6. **RESOLUTION ACCEPTING GALLERIA OF MEMPHIS PD, AMENDED, PHASE 10
AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 04-312
(Contract No. CR-5020)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on Germantown Road south of Interstate 40. The standard improvement contract was approved on July 25, 2006. Resolution also authorizes the release of the performance bond in the amount of \$114,800.00.

City Engineer recommends approval

APPROVED

7. **RESOLUTION APPROVING FINAL PLAT OF LINDEN YARD PLANNED
DEVELOPMENT.**

Case No. PD 06-359

Resolution approves the final plat located on the northwest and southwest corners of Linden Avenue and Southern Railway Railroad. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

APPROVED

8. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 07-344cc – Shelby Park East, P.D.
- B. Case No. PD 08-301 – Rock of Ages P.D.
- C. Case No. SAC 05-614 - Warren Road
- D. Case No. SAC 06-610 – Mulberry Street Closure
- E. Case No. SAC 07-619 - Mill Avenue Closure
- F. Case No. SAC 07-620 – 2nd Mill Avenue Closure
- G. Case No. SAC 07-621 –Stonebrook Circle Street Closure
- H. Case No. SUP 08-203

Public Hearing Set for April 1, 2008

ROLL CALL CONSENT ITEMS

MOTION: Collins
SECOND: Flinn
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman McCormick
Brown did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 9 - 17 may be acted upon by one motion:

9. **RESOLUTION AWARDDING CONTRACT NO. 11235, LONG DISTANCE TELEPHONE SERVICE, TO AT&T IN THE AMOUNT OF \$45,000.00. (THIS CONTRACT COVERS A 36-MONTH PERIOD, APRIL 1, 2008 TO MARCH 31, 2011, WITH AN ANNUAL BUDGETED AMOUNT OF \$15,000.00.)**

APPROVED

10. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11061, WIRELESS TELEPHONE SERVICES, WITH AT&T MOBILITY (FORMERLY CINGULAR WIRELESS), IN THE FUNDED AMOUNT OF \$291,850.00. (THIS RENEWS THE CONTRACT FOR THE SECOND TERM, APRIL 3, 2008 TO APRIL 2, 2009.)**

APPROVED

11. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11072, MLGW EMPLOYEE ASSISTANCE PROGRAM, WITH METHODIST HEALTHCARE, INC. IN THE FUNDED AMOUNT OF \$28,500.00. (THIS RENEWS THE CONTRACT FOR THE SECOND TERM, APRIL 1, 2008 THROUGH MARCH 31, 2009.)**

APPROVED

12. **RESOLUTION AWARDDING CONTRACT FOR SODIUM HEXAMETAPHOSPHATE TO BRENNTAG MID-SOUTH IN THE AMOUNT OF \$417,375.00.**

APPROVED

13. **RESOLUTION AWARDDING CONTRACT TO DLT SOLUTIONS, INC. FOR RENEWAL OF RED HAT SOFTWARE SUPPORT IN THE AMOUNT OF \$63,640.15.**

APPROVED

14. **RESOLUTION AMENDING PURCHASE ORDER NO. 125194 WITH CARY OIL COMPANY, INC. FOR PROVIDING FUEL IN THE AMOUNT OF \$2,000,000.00.**

APPROVED

15. **RESOLUTION APPROVING PAYMENT OF 2008 PIPELINE USER FEE TO THE U. S. DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$30,232.43.**

APPROVED

16. **RESOLUTION APPROVING PAYMENT OF 2008 MEMBERSHIP DUES TO AMERICAN GAS ASSOCIATION (AGA) IN THE AMOUNT OF \$54,630.00.**

APPROVED

17. **RESOLUTION APPROVING PAYMENT OF 2008 MEMBERSHIP DUES TO TENNESSEE VALLEY PUBLIC POWER ASSOCIATION (TVPPA) IN THE AMOUNT OF \$44,732.51.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Morrison
AYES: Boyd, Collins, Flinn, Ford, Hedgepeth, Lowery, Morrison, Strickland,
Ware and Chairman McCormick
Halbert abstained
Brown and Fullilove did not cast a vote

APPROVED

(Councilman Strickland presented Certificates to Cub Scouts 240 Pack)

18. **APPOINTMENT**

HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD

APPOINTMENT

CAROLYN H. STEARNES

MOTION: Flinn

SECOND: Ford

AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Lowery, Morrison, Ware and Chairman McCormick
Strickland did not cast a vote

APPROVED

19. **ORDINANCE REPEALING ORDINANCE NO. 4013 REGULATING SEXUALLY ORIENTED BUSINESSES AND ADOPTING ADULT-ORIENTED ESTABLISHMENT REGISTRATION ORDINANCE, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5250

(Councilman Ford made a motion to have this item Tabled, until the Courts have enough time to adjudicate on this matter).

(Special Item #1)

MOTION: Ford

SECOND: Morrison

AYES: Boyd, Flinn, Ford, Fullilove, Halbert, Hedgepeth and Ware

NAYS: Collins, Lowery, Morrison, Strickland and Chairman McCormick
Brown did not cast a vote

APPROVED, (this item is being Tabled)

(Councilman Lowery made a motion to have this item heard again, in 2 weeks)

(Special Item #2)

MOTION: Lowery

SECOND: Strickland

AYES: Lowery and Strickland

NAYS: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Ware and
Chairman McCormick
Brown did not cast a vote

FAILED

20. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$3,000,000.00 FROM THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT FOR THE FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM (FIDP) ON BEHALF OF NUCOR STEEL MEMPHIS, INC. FIDP FUNDS WILL BE USED, ALONG WITH MATCHING FUNDS PROVIDED BY NUCOR TO CONSTRUCT A 161 KV TRANSMISSION LINE RUNNING FROM ALLEN GENERATING PLANT TO NUCOR'S SUBSTATION; DREDGING OF THE MISSISSIPPI RIVER AT THE NUCOR ENTRANCE TO THE HARBOR; CONSTRUCTION OF NEW RAILROAD TRACK AND SWITCHES WITH ASSOCIATED GRADING, DRAINAGE AND ROAD CROSSING WORK; AND CONSTRUCTION OF A RAILROAD CROSSING SIGNAL AND ARMS ON PAUL LOWRY ROAD IN PIDGEON INDUSTRIAL PARK NEEDED FOR THE EXPANSION OF THE NUCOR STEEL MEMPHIS FACILITY. RESOLUTION AMENDS THE FY 2008 CAPITAL IMPROVEMENT PROGRAM BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS IN THE AMOUNT OF \$3,000,000.00.**

MOTION: Morrison

SECOND: Ware

AYES: Collins, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Ware and Chairman McCormick
Boyd, Brown, Hedgepeth and Strickland did not cast a vote

APPROVED

21. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF FORTY FOUR THOUSAND THREE HUNDRED SIXTEEN DOLLARS (\$44,316.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE INCUMBENT WORKERS SERVICES GRANT. RESOLUTION ALSO AMENDS THE FY 2008 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins

SECOND: Ware

AYES: Collins, Flinn, Fullilove, Halbert, Lowery, Morrison, Strickland, Ware and Chairman McCormick
Boyd, Brown, Ford and Hedgepeth did not cast a vote

APPROVED

22. **RESOLUTION AUTHORIZING THE MEMPHIS-SHELBY COUNTY AIRPORT AUTHORITY TO ISSUE A SERIES OF AIRPORT REVENUE REFUNDING BONDS, SERIES 2008 TO REFUND AIRPORT REVENUE BONDS.**

MOTION: Collins

SECOND: Ware
 AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman McCormick
 Brown did not cast a vote

APPROVED

23. **RESOLUTION APPROPRIATING \$522,708.00 IN G.O. BONDS FROM THE FISCAL YEAR 2008 CIP BUDGET TO PURCHASE DEFIBRILLATOR/MONITORS FOR THE DIVISION OF FIRE SERVICES FOR A TOTAL APPROPRIATION OF \$522,708.00.**

MOTION: Hedgepeth
 SECOND: Flinn
 AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman McCormick
 Brown did not cast a vote

APPROVED

24. **RESOLUTION TO CONVEY TWO (2) WORLD WAR II HALF TRACK VEHICLES TO THE MID-SOUTH MILITARY MUSEUM FOR THE AMOUNT OF \$1.00 FOR THE PRESERVATION AND RESTORATION OF HISTORIC VALUE AND HONORING MILITARY VETERANS.**

MOTION: Morrison
 SECOND: Flinn
 AYES: Collins, Flinn, Ford, Fullilove, Halbert, Strickland, Ware and Chairman McCormick
 Boyd, Brown, Hedgepeth, Lowery and Morrison did not cast a vote

APPROVED

25. **RESOLUTION AMENDING THE LIVING WAGE RATE FOR CITY OF MEMPHIS PART-TIME/TEMPORARY EMPLOYEES AGED 18 AND UP SHALL BE A MINIMUM OF TWELVE DOLLARS (\$12.00) PER HOUR EFFECTIVE JULY 1, 2008.**

Held until April 1, 2008

26. **RESOLUTION GRANTING VARIOUS EASEMENTS TO THE CITY OF MEMPHIS PROPERTY LOCATED ON THE NORTHWEST CORNER OF ZACH H. CURLIN STREET AND THE SOUTHERN RAILROAD RIGHT-OF-WAY FOR AND IN CONSIDERATION OF \$1.00.**

MOTION: Ware
 SECOND: Morrison

AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Lowery, Morrison,
Strickland, Ware and Chairman McCormick
Fullilove abstained
Brown did not cast a vote

APPROVED

27. **RESOLUTION TRANSFERRING AN ALLOCATION OF \$2,000.00 FROM CONSTRUCTION TO ARCHITECT/ENGINEERING AND APPROPRIATING \$126,000.00 IN CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR AQUATIC FACILITIES DEMOLITION.**

Council did include Aquatic Facilities Demolition, CIP Project Number PK04012, as part of the FY 2008 Capital Improvement Program.

MOTION: Strickland
SECOND: Ware
AYES: Boyd, Collins, Flinn, Ford, Hedgepeth, Lowery, Morrison, Strickland,
Ware and Chairman McCormick
Brown, Fullilove and Halbert did not cast a vote

APPROVED

28. **RESOLUTION APPROPRIATING \$352,000.00 IN CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR LIBERTY BOWL MAJOR MAINTENANCE.**

Council did include Liberty Bowl Major Maintenance, CIP Project Number PK10007, as part of the FY 2008 Capital Improvement Program.

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Strickland and Ware
NAYS: Morrison and Chairman McCormick

APPROVED

29. **RESOLUTION TRANSFERRING AN ALLOCATION OF \$30,000.00 FROM ARCHITECT/ENGINEERING TO CONSTRUCTION AND APPROPRIATING \$144,000.00 IN CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR TENNIS IMPROVEMENTS.**

Council did include Tennis Improvements, CIP Project Number PK03001, as part of the FY 2008 Capital Improvement Program.

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

30. **RESOLUTION APPROVING AN ADDITIONAL EXCEPTION FOR SPECIAL OCCASIONS HELD OUTSIDE OF ESTABLISHED PARK HOURS TO ACCOMMODATE THE RELAY FOR LIFE THAT IS PROMOTED AND SPONSORED BY THE AMERICAN CANCER SOCIETY WHICH WILL TAKE PLACE AT CANCER SURVIVORS PARK.**

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

31. **RESOLUTION TRANSFERRING AN ALLOCATION OF \$160,000.00 WITHIN SERVICE TO UNSEWERED AREAS, PROJECT NUMBER SW03001 FROM CONTRACT CONSTRUCTION COST TO PLANNING COST.**

MOTION: Morrison
SECOND: Brown
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

32. **RESOLUTION AMENDING THE FY 2008 CAPITAL IMPROVEMENT BUDGET BY APPROPRIATING \$75,046.00 FUNDED BY G.O. BONDS GENERAL FOR CRASH CUSHIONS, PROJECT NUMBER PW04057 FOR A CONSTRUCTION CONTRACT WITH TRAF-MARK, INC., TO REPLACE IMPACT ATTENUATORS.**

MOTION: Morrison
SECOND: Ford
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

33. **ORDINANCE REZONING THE NORTH SIDE OF STATELINE ROAD; +/-125 FEET EAST OF BRIDGE MILL LANE, CONTAINING 5.83 ACRES IN THE AGRICULTURE (AG) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5253
Case No. Z 07-120cc

Applicant: Carolyn Gowan and Keith & Jacqueline Carter
Royston Construction Consultants - Representative

Request: Single Family Residential (R-S10) District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: McCormick
AYES: Boyd, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware
and Chairman McCormick
Brown, Ford and Morrison did not cast a vote

APPROVED

34. **ORDINANCE REZONING THE WEST SIDE OF SOUTH WILLETT STREET, 75 – 135 FT. NORTH OF MONROE AVENUE, CONTAINING 6,725 SQ. FT. (0.154 ACRE) IN THE MULTI-FAMILY RESIDENTIAL (R-MH) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5254
Case No. Z 07-121

Applicant: Mad Will Properties, LLC
Cindy Reaves, SR Consulting, LLC – Representative

Request: Parking (P) District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Brown
AYES: Brown, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware
and Chairman McCormick
Boyd, Ford and Morrison did not cast a vote

APPROVED

35. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF NEW BRUNSWICK ROAD; +/-244.37 FEET SOUTH OF U.S. HIGHWAY 64, CONTAINING 1.73 ACRES IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT.**

Case No. SUP 08-206

Applicant: CBH Hospitality
Bray-Davis Firm, LLC – Representative

Request: Special use permit to allow a new hotel building

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: Ware

AYES: Boyd, Brown, Collins, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Ware
and Chairman McCormick
Flinn, Ford and Strickland did not cast a vote

APPROVED

36. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST SIDE OF CHELSEA AVENUE; +/-240.70 FEET EAST OF OZAN STREET, CONTAINING 1.70 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**

Case No. PD 07-346

Applicant: B.P.L. Landscaping, Inc.
Shroyer Engineering Company – Representative

Request: Planned development to continue and expand a Landscaping
Nursery

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: Morrison

AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

37. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHWEST CORNER OF HAVER HILL ROAD AND CHERRY ROAD, CONTAINING 25.5 ACRES IN AN AREA REGULATED BY THE APPROVED CONDITIONS FOR P.D 99-366 – RBM CHERRY ROAD PARTNERS.**

Case No. PD 08-304

Applicant: RBM Cherry Road Partners
Ronald Harkavy – Representative

Request: Amend the planned development to transfer 1.3 acres of land from
Lot 2 to Lot 1 and add surface parking between the existing
building in Lot 1 and Cherry Road

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Brown
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman McCormick

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman McCormick recognized the following people who spoke from the audience:

Brinn Clay, 2113 Worchester Lane, Memphis, TN. 38134
Walter Broady III, 4256 Ledbetter Cove, Mphs, TN 38109
James Tate, 151 Marne, Memphis, TN. 38111

ADJOURNED MEETING AT 6:15 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records